

EXHIBIT K

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL) MDL No. 2804
PRESCRIPTION OPIATE)
LITIGATION) Case No.
) 1:17-MD-2804
)
THIS DOCUMENT RELATES TO) Hon. Dan A.
ALL CASES) Polster
)

— — —
Tuesday, May 14, 2019
— — —

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW
— — —

Videotaped Deposition of NANCY K.
YOUNG, Ph.D., held at Robinson Calcagnie,
Inc., 19 Corporate Plaza Drive, Newport
Beach, California, commencing at 9:10 a.m.,
on the above date, before Debra A. Dibble,
Registered Diplomate Reporter, Certified
Realtime Reporter, Certified Realtime
Captioner, and Notary Public.

— — —
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1 you understand that your role is not to
2 advocate for the party that represented -- or
3 retained you, but to provide an accurate and
4 fair representation of your own expertise as
5 it pertains to the issues in the case?

6 MS. FLOWERS: Object to the
7 form.

8 THE WITNESS: I understand that
9 as my -- a researcher in the field,
10 that is what I understand, yes. And
11 as an expert in this case, yes.

12 Q. (BY MR. ALEXANDER) So like
13 when you did your expert report, you would
14 want to include statements that were helpful
15 to plaintiffs' case and statements that were
16 not helpful to plaintiffs' case if you
17 thought that they were accurate; correct?

18 MS. FLOWERS: Object to the
19 form. Lack of foundation.

20 THE WITNESS: I -- yes. I can
21 say yes, I would want to include
22 statements both ways. I don't believe
23 I found any statements that were
24 endorsing the proliferation of drugs

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1 in communities.

2 Q. (BY MR. ALEXANDER) When you
3 say endorsing the proliferation of
4 prescription drugs in communities?

5 A. Yes.

6 Q. Do you intend to offer any
7 opinions at trial as to why there have been
8 increases in any metric of abuse at any point
9 in time in Cuyahoga and Summit County?

10 MS. FLOWERS: Object to the
11 form.

12 THE WITNESS: That's outside of
13 the scope of my report. And I think
14 that's my experience and knowledge
15 about what has gone on in many
16 communities around our country.

17 Q. (BY MR. ALEXANDER) So no, you
18 don't intend to offer any opinions at trial
19 about the reasons for the increase in any
20 type of substance abuse in Cuyahoga or Summit
21 County to any point of time; correct?

22 MS. FLOWERS: Object to the
23 form.

24 THE WITNESS: That's outside of

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1 the scope of what I was asked to do.

2 Q. (BY MR. ALEXANDER) So you're
3 not going to do it?

4 MS. FLOWERS: Object to the
5 form.

6 THE WITNESS: That's correct.

7 Q. (BY MR. ALEXANDER) And you're
8 not offering any opinions about the conduct
9 of any of the defendants in the case;
10 correct?

11 A. No. That wouldn't be my area
12 of expertise.

13 Q. So correct, you're not going to
14 do it?

15 MS. FLOWERS: Object to the
16 form.

17 THE WITNESS: So correct.

18 Q. (BY MR. ALEXANDER) Do you know
19 the names of any of the defendants?

20 A. I know some of the names of the
21 defendants, yes.

22 Q. I saw that one of the things
23 that you reviewed was one of the versions of
24 one of the complaints for either Cuyahoga or

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1 Summit County. In connection with reviewing
2 the complaint, did you see various
3 allegations in there about what specific
4 defendants were alleged to have done wrong to
5 have -- what they did or what they failed to
6 do that the plaintiffs had some issue with?

7 A. Yes, did I see that.

8 Q. And you're not the person who
9 will testify at trial about whether any of
10 those allegations are correct or incorrect as
11 they relate to the conduct of any defendant?

12 A. That is correct.

13 Q. And in terms of what standards
14 apply to the conduct of any of the
15 defendants, whether they be FDA standards,
16 DEA standards, or any other standard that
17 might govern their conduct, you're not the
18 one to say what the standards of conduct are;
19 correct?

20 A. That is correct.

21 Q. And in terms of whether
22 anything the defendants did or didn't do
23 caused or contributed to anything about the
24 opioid epidemic or opiate crisis, however you

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1 may term it, that's also not anything you're
2 going to address; correct?

3 A. That is correct.

4 Q. In terms of whether anything
5 the defendants did or didn't do essentially
6 increased the cost of Cuyahoga or Summit
7 County in regards to anything relating to
8 substance abuse, that is also not an area
9 where you'll be offering expert opinions;
10 correct?

11 A. I am not an expert on the cost
12 to the County broadly. I do understand the
13 cost in children's services, although I
14 haven't been asked, nor would I offer
15 expertise on the cost of specific cases or
16 increased cases in children's services
17 related to the -- to opioids in the
18 community.

19 Q. Your expert report doesn't
20 address costs at all.

21 A. That is correct.

22 Q. Therefore you're not going to
23 be offering any opinions that talk about past
24 costs or future costs associated with any

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1 social services or aspect of remediating any
2 problem with substance abuse; correct?

3 MS. FLOWERS: Object to the
4 form. Asked and answered.

5 THE WITNESS: That is correct.

6 Q. (BY MR. ALEXANDER) And you're
7 not offering any kind of opinions about how
8 costs or damages should be allocated among
9 the defendants or any group of defendants
10 based upon any analysis or opinions you hold.

11 MS. FLOWERS: Same objection.

12 THE WITNESS: That is correct.

13 Q. (BY MR. ALEXANDER) You're not
14 actually -- do you call it the opioid crisis?
15 The opiate epidemic? What words do you use
16 to describe the issue of the problems in
17 society that have been related to increasing
18 abuse of drugs like heroin and fentanyl?

19 MS. FLOWERS: Object to the
20 form. Lack of foundation.

21 THE WITNESS: The opioid
22 epidemic.

23 Q. (BY MR. ALEXANDER) Okay. So
24 using that term as you use it, do you intend

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1 to offer any testimony about the causes of
2 the opioid epidemic?

3 A. No, I wouldn't be testifying to
4 the causes of the opioid epidemic.

5 Q. Are you going to testify to the
6 causes of what drives substance abuse of any
7 substance in the United States or
8 specifically Cuyahoga and Summit County?

9 MS. FLOWERS: Object to the
10 form.

11 THE WITNESS: No. That is
12 outside of the scope of what I was
13 asked to report on.

14 Q. (BY MR. ALEXANDER) Is that
15 also beyond your expertise, ma'am?

16 A. I have a great deal of
17 knowledge about that, but that is not what I
18 was asked to report on, nor do I believe I
19 would be the expert that would be asked to
20 testify about that. There are other experts,
21 I believe, that the plaintiffs would call for
22 that.

23 Q. So we've talked about neonatal
24 abstinence syndrome. You've also used the

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1 term neonatal opiate withdrawal, NOW? That's
2 in one of your footnotes. You say a lot of
3 clinicians get those wrong, but you really
4 think NOW is the right word? Or acronym? Is
5 that right?

6 MS. FLOWERS: Object to the
7 form. Misstates the report.

8 THE WITNESS: Would you like me
9 to explain that?

10 Q. (BY MR. ALEXANDER) I want to
11 make sure I'm using the right acronyms when I
12 ask you substantive questions. Do you prefer
13 NAS or NOW?

14 A. We can use the term NAS.
15 That's sort of the generic term. I do a fair
16 amount of writing for the federal government,
17 and when I'm writing for the federal
18 government, the federal government would like
19 me to be precise when I'm speaking or
20 writing, rather, specific to opioid
21 withdrawal, versus the broader category of
22 any abstinence syndrome, which would include
23 any kind of substance that the infant was
24 exposed to. But it is generally referred to

<p style="text-align: right;">Page 162</p> <p>1 I detail the kinds of programs that 2 they put in place in order to try and 3 ameliorate the problems that were in 4 their caseloads. 5 Q. (BY MR. ALEXANDER) And in 6 general, you think that it is reasonable and 7 appropriate to initiate programs as soon as 8 possible to try to ameliorate these problems; 9 correct? 10 A. I understand the restrictions 11 on being able to do that, when the caseloads 12 are such that the resources are not available 13 to you to be able to do that. 14 When you are having babies 15 dropped off at your door and you have to find 16 a place for them, and children that you don't 17 have a place to put them, then that's your 18 immediate need. So I understand the reasons 19 why some of these things can't be immediately 20 dealt with, because the child safety has to 21 come first. 22 Q. Do you think that it's 23 reasonable and appropriate to try to initiate 24 programs as soon as possible to try to</p>	<p style="text-align: right;">Page 164</p> <p>1 address the social services burden created by 2 the opioid epidemic? 3 MR. PENDELL: Objection. 4 THE WITNESS: I do not say that 5 in my report, and I know that what is 6 on the ground is not yet sufficient. 7 It has not yet remediated the problem 8 that they have. 9 Q. (BY MR. ALEXANDER) So let me 10 use your words, then. The issue of whether 11 everything Cuyahoga County has done has been 12 timely and appropriate was beyond the scope 13 of your work in this case; correct? 14 MR. PENDELL: Objection, form. 15 THE WITNESS: Could you repeat 16 that? 17 Q. (BY MR. ALEXANDER) Sure. 18 The issue of whether everything 19 Cuyahoga County has done has been -- let me 20 start over. The issue of whether everything 21 Cuyahoga County has done has been timely and 22 appropriate was beyond the scope of your work 23 in this case? 24 MS. FLOWERS: Object to the</p>
<p style="text-align: right;">Page 163</p> <p>1 ameliorate these problems; correct? 2 A. I do think it is appropriate 3 and reasonable when you can to put these 4 programs in place in order to help families 5 recover and care for their children. 6 Q. And based upon the analysis 7 that you've done thus far in the case, the 8 information available to you that we've gone 9 over what you've seen and haven't seen, you 10 are not in a position to talk about whether 11 all of the measures that have been initiated 12 in Cuyahoga County were both reasonable and 13 appropriate in terms of their scope and their 14 timeliness; correct? 15 MR. PENDELL: Objection to 16 form. 17 MS. FLOWERS: Lack of 18 foundation. 19 THE WITNESS: I disagree with 20 you. 21 Q. (BY MR. ALEXANDER) Have you 22 disclosed in your expert report somewhere 23 where you say all of what Cuyahoga County has 24 done has been reasonable and timely to</p>	<p style="text-align: right;">Page 165</p> <p>1 form. Lack of foundation. 2 THE WITNESS: Yes, that was not 3 what I was asked to do. 4 Q. (BY MR. ALEXANDER) Same thing 5 for Summit County. The issue of whether what 6 Summit County has done in terms of changes in 7 family services, children's services, was 8 reasonable and timely, that was beyond the 9 scope of your work in this case? 10 MS. FLOWERS: Same objection. 11 THE WITNESS: Yes, that is 12 beyond what I was asked to do. 13 Q. (BY MR. ALEXANDER) In other 14 words, you're not coming into court and 15 vouching for Cuyahoga County Children and 16 Family Services or Summit County Children's 17 Services, if you say that everything that 18 they did was reasonable and appropriate as a 19 response to the opioid epidemic after it 20 became known to them or should have become 21 known to them that there was a problem that 22 required additional efforts; correct? 23 MS. FLOWERS: Object to the 24 form. Asked and answered.</p>

<p style="text-align: right;">Page 166</p> <p>1 THE WITNESS: That is correct.</p> <p>2 I've listed in my report what I know</p> <p>3 of the efforts that were put forward.</p> <p>4 Q. (BY MR. ALEXANDER) And</p> <p>5 therefore, your recommendations in your</p> <p>6 report, the latter part of your report where</p> <p>7 you go over some general recommendations of</p> <p>8 what should be done and some general</p> <p>9 description of what has been done or maybe is</p> <p>10 going to be done in the future in the</p> <p>11 counties, none of that is intended to take</p> <p>12 account for how things would be if the</p> <p>13 counties had behaved reasonably and</p> <p>14 appropriately in terms of what they did and</p> <p>15 when they did it; correct?</p> <p>16 MS. FLOWERS: Object to the</p> <p>17 form. Calls for speculation.</p> <p>18 THE WITNESS: That is correct.</p> <p>19 It was not intended for those purposes</p> <p>20 that you state.</p> <p>21 Q. (BY MR. ALEXANDER) And I want</p> <p>22 to make sure we're on the same page, and I'm</p> <p>23 pretty sure we are. But essentially -- I</p> <p>24 mean, some of what you describe are like best</p>	<p style="text-align: right;">Page 168</p> <p>1 A. That is correct.</p> <p>2 Q. And the things that you think</p> <p>3 should be done now, if they'd been done</p> <p>4 before, they may have improved things so that</p> <p>5 things would be better now than they are;</p> <p>6 correct?</p> <p>7 MS. FLOWERS: Object to the</p> <p>8 form and lack of foundation.</p> <p>9 THE WITNESS: Yes. That is</p> <p>10 correct.</p> <p>11 Q. (BY MR. ALEXANDER) I mean,</p> <p>12 that's the way it works, is if you had, for</p> <p>13 instance, think that MAT -- do you know what</p> <p>14 MAT means in this context?</p> <p>15 A. Yes, I do.</p> <p>16 Q. What does it mean?</p> <p>17 A. Medication-assisted treatment.</p> <p>18 Q. And you think that there are</p> <p>19 some barriers, kind of in terms of local law</p> <p>20 and coordination between various</p> <p>21 stakeholders, that can affect or impair the</p> <p>22 efficacy of MAT in treating opioid use</p> <p>23 disorder; correct?</p> <p>24 MS. FLOWERS: Object to the</p>
<p style="text-align: right;">Page 167</p> <p>1 practices and those may emerge over time.</p> <p>2 But you have things that you think are</p> <p>3 appropriate to be done to address the impact</p> <p>4 of increasing substance abuse and the</p> <p>5 specifics relating to the opioid epidemic as</p> <p>6 you understand it. Correct, in general</p> <p>7 terms?</p> <p>8 A. Yes. Things that we have --</p> <p>9 that have been demonstrated in other</p> <p>10 communities that have helped remedy the</p> <p>11 crisis, if you will.</p> <p>12 Q. Right. So like you wouldn't</p> <p>13 suggest something as a recommendation if you</p> <p>14 thought that it wasn't likely to help;</p> <p>15 correct?</p> <p>16 A. That's correct.</p> <p>17 Q. I mean, we know that you didn't</p> <p>18 do any kind of legal feasibility analysis or</p> <p>19 consider budget or cost in any of this;</p> <p>20 correct?</p> <p>21 A. That is correct.</p> <p>22 Q. But in general, when you</p> <p>23 recommend something, you recommend the things</p> <p>24 you think will help; correct?</p>	<p style="text-align: right;">Page 169</p> <p>1 form and the characterization of the</p> <p>2 report.</p> <p>3 THE WITNESS: I disagree with</p> <p>4 your statement. You said that the</p> <p>5 barriers of access would interfere</p> <p>6 with the efficacy of MAT. And that's</p> <p>7 not true.</p> <p>8 Q. (BY MR. ALEXANDER) So I</p> <p>9 actually didn't say access. That maybe was</p> <p>10 an add-on.</p> <p>11 A. No, you -- you said something</p> <p>12 about the barriers of local control.</p> <p>13 Q. So --</p> <p>14 A. Would interfere with efficacy.</p> <p>15 Q. Let me put it this way.</p> <p>16 A. Okay.</p> <p>17 Q. When it comes to something like</p> <p>18 MAT, this is just an example. You have</p> <p>19 general best practices recommendations for</p> <p>20 the ways that essentially MAT being available</p> <p>21 and being implemented can be at its maximal</p> <p>22 efficacy; correct?</p> <p>23 A. Let me look. I don't actually</p> <p>24 remember what I said about availability of</p>

<p style="text-align: right;">Page 362</p> <p>1 increased levels of substance use, including 2 but not limited to opioids, have devastated 3 many American families and the child welfare 4 system has felt the effects? 5 A. Yes. 6 Q. And in none of your testimony 7 in this case do you intend to offer an 8 opinion with some sort of differentiation or 9 breakdown between the effects of substance 10 use that involves opioids versus substance 11 use that does not involve opioids? 12 MS. FLOWERS: Object to the 13 form, and lack of foundation. 14 THE WITNESS: No, I do not. 15 Q. (BY MR. ALEXANDER) The 16 statement in the middle, "The situation is 17 not uniform. While many states saw 18 considerable increases, in some states the 19 number of children in foster care actually 20 decreased during this period." 21 You think that's accurate data; 22 correct? 23 MS. FLOWERS: Object to the 24 form.</p>	<p style="text-align: right;">Page 364</p> <p>1 they didn't put those practice changes in 2 place until later. There are also some 3 states that had some specific policy changes 4 particularly related to adolescents and 5 moving kids out of group homes. So more 6 recently another law change has happened that 7 sort of mimics those changes in moving kids 8 out of residential placements. So there are 9 some states that had already moved into some 10 of that practice. So there's some variation 11 by states that had already either lagged in 12 some of those policy changes or had moved 13 forward with some of those changes for 14 adolescents in group homes -- 15 Q. Dr. Young -- 16 A. -- so it varies from state to 17 state. 18 Q. I'm sorry, I thought you were 19 done. 20 Dr. Young, have you analyzed 21 what it is about anything relating to drug 22 usage or distribution patterns in the states 23 that continue to have a decrease in foster 24 care numbers that might explain that?</p>
<p style="text-align: right;">Page 363</p> <p>1 THE WITNESS: Yes, I believe it 2 is. 3 Q. (BY MR. ALEXANDER) Given your 4 general discussion about what's been going on 5 nationally, do you have an explanation for 6 why it is that there are some states that had 7 a decrease in the number of children in 8 foster care during this time period when 9 there was, nationally, an increase in opioid 10 prescriptions according to your testimony and 11 understanding? 12 A. I believe you've misstated my 13 report and my testimony about nationally the 14 increase of opioids. 15 Q. Let me ask it this way: Do you 16 have an explanation for why there would be 17 some states where during this same time 18 period the number of cases in foster care 19 continue to go down as they had been for the 20 prior ten-plus years nationally? 21 A. There are some discussions 22 about some of the states that made those 23 policy changes and practice changes that we 24 spoke about earlier. That they were -- that</p>	<p style="text-align: right;">Page 365</p> <p>1 MS. FLOWERS: Object to the 2 form. Asked and answered. 3 THE WITNESS: I have begun to 4 look at some of that and some of the 5 states that have high numbers of 6 babies going into out-of-home care, 7 but I'm not ready to make any 8 statements related to that. 9 Q. (BY MR. ALEXANDER) You're not 10 going to rely on pending analyses that you're 11 trying to publish or present in connection 12 with anything you're doing in this case? 13 A. No, I'm not. 14 (Whereupon, Deposition Exhibit 15 Young-5 was marked for 16 identification.) 17 Q. (BY MR. ALEXANDER) Handing you 18 what I've marked as Deposition Exhibit 5. 19 There's a copy for counsel. 20 This is identified as being a 21 docket from Children and Family Futures, 22 which is your written testimony before the 23 United States Senate Committee on Finance, 24 examining the opioid epidemic challenges and</p>

<p style="text-align: right;">Page 422</p> <p>1 MS. FLOWERS: Lack of 2 foundation, objection. 3 THE WITNESS: The counties are 4 very much involved with what these 5 need to happen, but they -- can't do 6 it by themselves. It takes all of 7 these entities pulling together. 8 Q. (BY MR. ALEXANDER) Do you 9 understand that this lawsuit involves certain 10 parties that the court may be able to order 11 to do something, but only the ones who are 12 parties, like not the state, not third-party 13 hospital chains, not individual doctors out 14 in the community, not people running 15 treatment centers. Do you understand that? 16 MS. FLOWERS: Objection, calls 17 for a legal conclusion. 18 THE WITNESS: I understand 19 that. I also understand that that is 20 much of what this work entails is 21 bringing together community groups and 22 other interested parties. It's in the 23 hospital's best interest to also 24 participate to reduce the number of</p>	<p style="text-align: right;">Page 424</p> <p>1 I could take a look at that, but I 2 think that most of these 3 recommendations would take the County 4 and other entities working together. 5 Q. (BY MR. ALEXANDER) So sitting 6 here today, having gone through your first 7 deposition, do you have anything that you've 8 testified to thus far you need to change or 9 supplement that we haven't already gone over? 10 A. Not that I know of right now. 11 Q. Do you have any additional 12 analysis or review or preparation that you 13 need to do before you testify at trial in 14 this matter? 15 A. Not that I know of right now. 16 Q. And obviously there can be 17 additional medical literature that comes out 18 or additional dataset or additional requests 19 from plaintiffs for you to look at stuff. If 20 you get that sort of information and it 21 changes your opinions or your bases therefor, 22 you will let us know through plaintiffs' 23 counsel; right? 24 A. Yes.</p>
<p style="text-align: right;">Page 423</p> <p>1 babies born with NAS, and that is the 2 way in which that comes together to 3 ensure that they're getting something 4 from this collaborative as well as the 5 county is getting something from this 6 collaborative. 7 Q. (BY MR. ALEXANDER) When you 8 say this work entails, are you talking about 9 the litigation? Or are you talking about the 10 general practice in the field? 11 A. I'm talking about the solutions 12 of putting together the collaborative work 13 that needs to happen to create these 14 solutions. 15 Q. Okay. So going back to my 16 question, did you include, or can you 17 identify the specific recommendations you 18 have that would just be things that would 19 need to be done by the counties themselves, 20 as opposed to involving the state or various 21 third parties? 22 MS. FLOWERS: Object to the 23 form. 24 THE WITNESS: I didn't do that.</p>	<p style="text-align: right;">Page 425</p> <p>1 MR. ALEXANDER: So subject to 2 our reservations that we went over 3 before on the record, I won't repeat 4 all of that, and I think there may be 5 some need for some additional 6 follow-ups on specific data and issues 7 identified relating to data during the 8 course of the deposition. Subject to 9 those reservations, those are the 10 questions that I have on behalf of 11 the -- my client and the distributor 12 defendants, and I would pass the 13 witness to anybody else who may ask 14 questions. 15 MS. FLOWERS: We have 7 minutes 16 and 38 seconds. 17 MR. ALEXANDER: Does anybody 18 else on the defense side have any 19 questions? 20 MS. FLOWERS: No questions. 21 Let's go off the record for just a 22 minute. 23 MR. ALEXANDER: Okay. 24</p>